

SUNSHINE REFORM TASK FORCE MEETING MINUTES

**Thursday, April 5, 2007
6:00pm – 9:00pm**

City Hall, W118-119

Present: Bob Brownstein, South Bay Labor Council; Ken Podgorsek, United Neighborhoods of SCC; Ed Rast, Strong Neighborhoods Initiative PAC; Nanci Williams, San José/Silicon Valley Chamber of Commerce; Dan Pulcrano, Silicon Valley Leadership Group; Judy Nadler, Markkula Center for Applied Ethics; Susan Goldberg, San José Mercury News; Virginia Holtz, Willow Glen Neighborhood Assoc.; Joan Rivas-Cosby, Five Wounds/Brookwood Terrace Neighborhood Advisory Committee; Margie Matthews, Former Councilmember; Mary Ann Ruiz, Parks and Recreation Commission; Karl Hoffower, Citizens Commission on Human Rights; Edward Davis, Orrick Law Firm (Legal Counsel).

Absent: Bobbie Fischler, League of Women Voters; Dave Zenker, Falls Creek Neighborhood Association; Brenda Otey, At Large-Representative.

Staff: Lee Price, City Clerk's Office; Dottie Disher, City Clerk's Office; Lisa Herrick, Senior Deputy City Attorney; Dan McFadden, Interim Deputy City Manager; Eva Terrazas, Office of the City Manager/Redevelopment Agency; Tom Manheim, Office of the City Manager.

I. Approval of March 15, 2007 Meeting Minutes

Upon a motion made by Margie Matthews, seconded by Ken Podgorsek, the March 15, 2007, minutes were approved (Judy Nadler abstained).

II. Comments from Chair

Chairman Rast reviewed the action on April 4, 2007 by the City Council regarding 9.1(a) Approval of staff's recommended methodology to implement a Pilot Program for a cost benefit analysis for City and Agency projects, activities and events seeking public funding. Staff also noted the power point presentations are now available on-line on the City's web-site.

The City Council approved staff's proposal, with the exception of the proposed categories of exemptions, and directed staff to work expeditiously with the Sunshine Reform Task Force to receive and analyze the Task Force's recommendations. This analysis shall be presented to the City Council within three weeks of the Task Force's submission of recommendations along with any further referrals and recommendations.

III. Review of Meeting Material

Staff provided an overview of the documents for the meeting.

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IV. Discussion on Closed Session Provisions

A. Legal Analysis on Labor Negotiation Recommendations:

The Task Force reviewed the legal analysis on the labor negotiation recommendations provided by the City Attorney's Office and AFSCME.

On a motion made by Susan Goldberg, seconded by Ken Podgorsek, the Task Force approved the recommendations made on March 15, 2007 on labor negotiations (Bob Brownstein abstained).

Excerpt from 3/15/07 Task Force meeting:

"A study session is conducted annually, early in the year, to educate the public on the negotiations process for all bargaining units and provide an opportunity for the public to ask questions and provide meaningful input to impending labor negotiations. The process would be conducted at a time that provides a meaningful opportunity for the public to participate in the process.

All proposed contracts with represented and unrepresented employees and the Council appointees be approved by the policy body in open session. Notice must be 10 days for contracts that are under \$1 million, and 14 days for contracts over \$1 million before the contract is scheduled to be discussed in open session".

B. Process for Certifying and Disclosing Closed Session

On a motion made by Ken Podgorsek, seconded by Susan Goldberg, the Task Force agreed to have the Enforcement Committee discuss and decide on the process for disclosing Closed Session and the length of time to retain closed session tapes (Margie Matthews and Judy Nadler opposed).

The intent of the Task Force is that the City Attorney certify closed session recordings that are not to be disclosed and to follow the language of Section 7(A) of the Closed Session Draft Provisions dated 2/20/07.

Excerpt from 2/20/07 Closed Session Draft provisions:

After an item has been discussed in closed session, the City Attorney may certify that the recording of the closed session on that matter should not be made available if he or she makes a specific finding that the public interest in non-disclosure outweighs the public interest in disclosure. The finding must be specific enough for the public to understand the reason for the certification without disclosing confidential information. The certification must also state when the recording may be made available, but the City Attorney may extend the time of the certification if he or she makes a specific

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finding that the public interest in non-disclosure outweighs the public interest in disclosure.

- C. Length of Time to Retain Closed Session Tapes
See discussion above, IV.B. Item deferred to Enforcement Committee.
- D. Audio Recording Labor Negotiations
The Task Force reaffirmed their decision to record all closed sessions, including those related to labor negotiations.
- E. Providing Written Summary of Closed Session Disclosures
The Task Force agreed to recommend that the City provide a written summary of closed session disclosures.

V. Discussion on Public Meetings

- A. Provisions/Supporting Documents
 - 1. Stacking e.g., policy body reports to a policy body Council Committee Procedures Memorandum 2/21/07

Chairman Rast reviewed recommendation for stacking.
 - 2. Exemptions to 10 Day Staff Report Rule

Staff reviewed the Council approved exemptions

On a motion made by Ken Podgorsek, seconded by Bob Brownstein, the Task Force unanimously agreed to recommend the following agenda requirements when a policy body reports to a policy: 1) the item should go through at least 2 ten-day noticing periods (i.e. 10 days notice for Council Committee, Commission or Board and 10 days for City Council), and 4 days for all other Policy bodies (unless there is a significant change to the initial staff recommendation). In addition, the Task Force approved the Council's exemptions to the 10 day staff report rule with clarification on exemption # 2 and more definitive parameters for exemption # 8 (i.e. are the items subject to "one week turnaround to Council" unlimited or can they be identified and limited).

Action Item: Staff to provide clarification on exemption #2 related to bids that are challenged and more definitive parameters for exemption # 8 regarding "one week turnarounds to Council."

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3. Description of Agenda Items

On a motion made by Ken Podgorsek, seconded by Mary Ann Ruiz, the Task Force unanimously agreed to recommend that that descriptions of agenda items be written in clear, understandable language, and if an exception to a significant standing City policy is at issue, those policies should be listed in the description.

4. Items of Significant Community Interest Must Be Appealable to the City Council. **On a motion made by Ken Podgorsek, seconded by Bob Brownstein, the Task Force agreed to recommend that items of significant community interest as defined in Council Policy 6-30 may be appealed to the City Council.**

VI. Update on SRTF's Status Report to the City Council on Preliminary Recommendations, Outstanding Issues, and Schedule.

The City's Rules and Open Government Committee considered the Task Force's Phase 1 Status Report on March 28, 2007. The Committee requested that the Task Force make business days and calendar days consistent with respect to requirements for policy bodies and ancillary bodies. The Task Force discussed whether the Status Report should be heard by the full Council. Significant discussion ensued on the definition and requirements for non-governmental bodies. Task Force member Podgorsek indicated he did not believe the current language represented the intent of the Task Force, and emphasized the provision should only apply to organization that provides a core City service like operating a community center.

Task Force member Margie Mathews requested that the record note that she disagreed with the definition and requirements for non-governmental bodies as approved by the Task Force on February 15, 2007.

Action Item: Staff will return with a list of groups/projects that receive a public subsidy of \$1 million or more and receive 200,000 in grant funding.

VII. Upcoming Agenda and Work Plan

- A. Cost Benefit Analysis/Public Subsidies
- B. Definition/Requirements for Non-governmental Bodies

VI. Public Comment

- A. Hensley Historic District, 1/26/07 (see Item V.A.4 above)
- B. San Jose Coalition for Immigrant Rights, 3/2/07
- C. Services, Immigrant Rights, and Education Network, 3/15/07

The meeting dispersed at 9:15 p.m.